

**IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF TEXAS  
MARSHALL DIVISION**

OYSTER OPTICS, LLC

Plaintiff,

vs.

CISCO SYSTEMS, INC.,

*Defendant.*

Case No. 2:20-cv-00211-JRG

**JOINT MOTION TO AMEND DOCKET CONTROL ORDER**

TO THE HONORABLE JUDGE OF SAID COURT:

I.

COME NOW Plaintiff Oyster Optics, LLC and Defendant Cisco Systems, Inc. (collectively, “the Parties”) and hereby file this Joint Motion to Amend Docket Control Order and states as follows:

II.

Pursuant to the Court’s operative Amended Docket Control Order entered on January 12, 2021 (Dkt. 52, 53), the Parties hereby request a two-week extension of all current deadlines, including the scheduled trial date. The Parties have met and conferred regarding these upcoming deadlines and jointly submit this request.

III.

The Parties seek these extensions of time not for delay, but for good cause so that justice may be served. Specifically, Cisco’s invalidity expert was injured in an accident on June 6, 2021, in which he fractured eight of his ribs. He is presently unable to complete Cisco’s invalidity report, which is otherwise set to be due on June 14, 2021. In order to allow the expert time to recover, and to prevent prejudice to Oyster in serving its infringement report before Cisco serves its

invalidity report, the Parties have agreed to adjust expert-related deadlines by two weeks. However, given the compact nature of the existing schedule, the Parties further agreed to request leave to move all deadlines by a corresponding two weeks.

#### IV.

The proposed amended deadlines are shown in the table below.

Current Deadline	Proposed Deadline	Event
November 1, 2021	November 15, 2021	*Jury Selection – 9:00 a.m. in <b>Marshall, Texas</b>
October 4, 2021	October 18, 2021	* If a juror questionnaire is to be used, an editable (in Microsoft Word format) questionnaire shall be jointly submitted to the Deputy Clerk in Charge by this date. <sup>1</sup>
September 27, 2021	October 11, 2021	*Pretrial Conference – 9:00 a.m. in <b>Marshall, Texas</b> before Judge Rodney Gilstrap
September 20, 2021	October 4, 2021	*Notify Court of Agreements Reached During Meet and Confer  The parties are ordered to meet and confer on any outstanding objections or motions <i>in limine</i> . The parties shall advise the Court of any agreements reached no later than 1:00 p.m. three (3) business days before the pretrial conference.
September 20, 2021	October 4, 2021	*File Joint Pretrial Order, Joint Proposed Jury Instructions, Joint Proposed Verdict Form, Responses to Motions <i>in Limine</i> , Updated Exhibit Lists, Updated Witness Lists, and Updated Deposition Designations

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<sup>1</sup> The Parties are referred to the Court's Standing Order Regarding Use of Juror Questionnaires in Advance of *Voir Dire*.

<b>Current Deadline</b>	<b>Proposed Deadline</b>	<b>Event</b>
September 13, 2021	September 27, 2021	<p>*File Notice of Request for Daily Transcript or Real Time Reporting.</p> <p>If a daily transcript or real time reporting of court proceedings is requested for trial, the party or parties making said request shall file a notice with the Court and e-mail the Court Reporter, Shelly Holmes, at <a href="mailto:shelly_holmes@txed.uscourts.gov">shelly_holmes@txed.uscourts.gov</a>.</p>
September 7, 2021	September 21, 2021	<p>File Motions <i>in Limine</i></p> <p>The parties shall limit their motions <i>in limine</i> to issues that if improperly introduced at trial would be so prejudicial that the Court could not alleviate the prejudice by giving appropriate instructions to the jury.</p>
September 7, 2021	September 21, 2021	Serve Objections to Rebuttal Pretrial Disclosures
August 30, 2021	September 14, 2021	Serve Objections to Pretrial Disclosures; and Serve Rebuttal Pretrial Disclosures
August 16, 2021	August 31, 2021	Serve Pretrial Disclosures (Witness List, Deposition Designations, and Exhibit List) by the Party with the Burden of Proof
August 9, 2021	August 24, 2021	<p>*Response to Dispositive Motions (including <i>Daubert</i> Motions). Responses to dispositive motions that were filed <u>prior</u> to the dispositive motion deadline, including <i>Daubert</i> Motions, shall be due in accordance with Local Rule CV-7(e), not to exceed the deadline as set forth in this Docket Control Order.<sup>2</sup> Motions for Summary Judgment shall comply with Local Rule CV-56.</p>

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<sup>2</sup> The parties are directed to Local Rule CV-7(d), which provides in part that “[a] party’s failure to oppose a motion in the manner prescribed herein creates a presumption that the party does not controvert the facts set out by movant and has no evidence to offer in opposition to the motion.” If the deadline under Local Rule CV 7(e) exceeds the deadline for Response to Dispositive Motions, the deadline for Response to Dispositive Motions controls.

Current Deadline	Proposed Deadline	Event
July 26, 2021	August 10, 2021	<p>*File Motions to Strike Expert Testimony (including <i>Daubert</i> Motions)</p> <p>No motion to strike expert testimony (including a <i>Daubert</i> motion) may be filed after this date without leave of the Court.</p>
July 26, 2021	August 10, 2021	<p>*File Dispositive Motions</p> <p>No dispositive motion may be filed after this date without leave of the Court.</p> <p>Motions shall comply with Local Rule CV-56 and Local Rule CV-7. <u>Motions to extend page limits will only be granted in exceptional circumstances. Exceptional circumstances require more than agreement among the parties.</u></p>
July 19, 2021	August 2, 2021	Deadline to Complete Expert Discovery
July 6, 2021	July 20, 2021	Serve Disclosures for Rebuttal Expert Witnesses
June 14, 2021	June 29, 2021	Serve Disclosures for Expert Witnesses by the Party with the Burden of Proof

WHEREFORE, Plaintiff Oyster Optics, LLC and Defendant Cisco Systems, Inc. respectfully pray that all current deadlines up to trial be extended, as set forth in the accompanying proposed docket control order. Accordingly, the Parties respectfully request that the Court amend the Docket Control Order (Dkt. 52, 53) as provided above.

Dated: June 9, 2021

Respectfully submitted,

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**ATTORNEYS FOR DEFENDANT  
CISCO SYSTEMS, INC.**

**CERTIFICATE OF CONFERENCE**

Counsel for Defendant, met and conferred with counsel for Plaintiff, and the Parties jointly request the relief sought in this motion.

/s/ Eric H. Findlay  
Eric H. Findlay

**CERTIFICATE OF SERVICE**

I hereby certify that a true and correct copy of the above and foregoing document has been served on all counsel of record via the Court's ECF system on June 9, 2021.

*/s/ Eric H. Findlay*  
Eric H. Findlay